

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BOMBARDIER INC.,

Plaintiff,

v.

MITSUBISHI AIRCRAFT CORPORATION,
MITSUBISHI AIRCRAFT CORPORATION
AMERICA, INC.; AEROSPACE TESTING
ENGINEERING & CERTIFICATION, INC.;
MICHEL KORWIN-SZYMANOWSKI;
LAURUS BASSON; MARC-ANTOINE
DELARCHE; CINDY DORNÉVAL; KEITH
AYRE; and JOHN AND/OR JANE DOES 1-88,

Defendants.

NO. 2:18-cv-1543-RAJ

DECLARATION OF MARK A.
BAILEY IN SUPPORT OF MOTION
FOR CLARIFICATION OF COURT'S
ORDER ON MOTIONS TO DISMISS

NOTE ON MOTION CALENDAR:
May 17, 2019

I, Mark A. Bailey, declare as follows:

1. I am an attorney with Karr Tuttle Campbell ("KTC"), counsel of record for Defendants Aerospace Testing Engineering & Certification, Inc. ("AeroTEC"), Michel Korwin-Szymanowski, Laurus Basson, and Cindy Dornéval (collectively, the "AeroTEC Defendants"). I make this declaration based on personal knowledge, and am otherwise competent to testify to the matters stated herein.

2. Attached as Exhibit A is a true and correct copy of a news item from "flightglobal.com" that quotes some of the language in this Court's Order on Defendants' Motions

DECLARATION OF MARK BAILEY - 1

NO. 2:18-cv-1543-RAJ
#1243210 v1 / 45898-028

KARR TUTTLE CAMPBELL
701 Fifth Avenue, Suite 3300
Seattle, Washington 98104
Main: (206) 223 1313
Fax: (206) 682 7100

1 to Dismiss, Dkt. #136. This news item has been republished on other internet sites.

2 Executed this 29th day of April, 2019, at Seattle, Washington.

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DECLARATION OF MARK BAILEY - 2

NO. 2:18-cv-1543-RAJ
#1243210 v1 / 45898-028

KARR TUTTLE CAMPBELL
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CERTIFICATE OF SERVICE

I, Sherelyn Anderson, affirm and state that I am employed by Karr Tuttle Campbell in King County, in the State of Washington. I am over the age of 18 and not a party to the within action. My business address is: 701 Fifth Avenue, Suite 3300, Seattle, WA 98101. On this day, I electronically filed the foregoing declaration with the Clerk of the Court and caused it to be served upon the below counsel of record using the CM/ECF system.

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Attorneys for Mitsubishi Aircraft Corporation America, Inc.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, to the best of my knowledge.

Dated this 29th day of April, 2019, at Seattle, Washington.

s/ Sherelyn Anderson
 Sherelyn Anderson
 Litigation Legal Assistant

EXHIBIT A

22 APRIL, 2019 | SOURCE: FLIGHT DASHBOARD | BY: JON HEMMERDINGER | BOSTON

A federal judge has dismissed Bombardier's claims that Mitsubishi Aircraft Corporation America violated trade secret laws.

However, a 15 April court order leaves in place similar allegations brought by Bombardier against MRJ flight testing company AeroTec and several of its staffers.

The order also does not address Bombardier's allegations against Japan-based Mitsubishi Aircraft, which owns the US affiliate.

Judge James Robart from US District Court in the Western District of Washington notes that Bombardier makes a strong case that Mitsubishi Aircraft Corporation America acquired Bombardier trade secrets.

But Bombardier's allegations fell short of the legal definition of trade secret misappropriation because Bombardier failed to show that Mitsubishi Aircraft Corporation America knew about those secrets.

"Bombardier plausibly alleges that [Mitsubishi Aircraft Corporation] America acquired and/or used Bombardier's trade secrets, but... Bombardier fails to plausibly allege that [it] did so with the requisite knowledge," says the order.

The judge granted Bombardier 15 days to submit an amended complaint with new information.



Mitsubishi

“Bombardier maintains its position that the facts of this case plainly show an unlawful misappropriation by [Mitsubishi Aircraft] and the other named defendants of Bombardier trade secrets to advance the certification of the MRJ aircraft,” says a Bombardier statement to FlightGlobal.

“Bombardier is currently reviewing the District Court’s judgment, which contains several elements supportive of Bombardier’s position, and will determine the best path going forward,” Bombardier adds.

Mitsubishi welcomes the judge's order.

“Mitsubishi Aircraft Corporation is encouraged by the court’s decision to dismiss Bombardier’s claims against Mitsubishi Aircraft Corporation America, in their entirety,” Mitsubishi tells FlightGlobal. “Mitsubishi Aircraft maintains its position that Bombardier’s allegations are without merit.”

“Mitsubishi Aircraft is confident that it will ultimately prevail in defending itself from Bombardier’s unwarranted allegations, and that Bombardier’s actions will not adversely

Mitsubishi has been working toward a mid-2020 delivery of its first MRJ90 to launch customer **All Nippon Airways**.

The ruling relates to Bombardier's October 2018 lawsuit against Mitsubishi Aircraft, Mitsubishi Aircraft Corporation America and Seattle-based AeroTEC, which assists with MRJ flight testing.

The suit also names several former Bombardier staffers who allegedly passed Bombardier trade secrets to AeroTec and Mitsubishi after leaving Bombardier to work for those companies on the MRJ programme.

The alleged stolen trade secrets relate to certification of Global 7000 and 8000 business jets, and the CSeries, now called the A220.

While granting reprieve to Mitsubishi Aircraft Corporation America, the 15 April order leaves in place Bombardier's allegations against AeroTEC and two former Bombardier employees.

Those employees are former senior engineering specialist for flight controls Laurus Basson and senior engineering specialist for flight controls Cindy Dorneval.

"The court also finds that AeroTEC acquired and/or used Bombardier's trade secrets," the order says. "The court may properly infer, based on Bombardier's allegations, that Mr Basson's and Ms Dorneval's alleged conduct was likely intended, at least in part, to benefit AeroTEC by advancing the MRJ's certification."

Other former Bombardier staffers named in the suit include former aerospace engineer Keith Ayre, former aircraft engineering specialist Marc-Antoine Delarche and former director of CSeries flight test teams Michel Korwin-Szymanowski.

The 15 April order dismisses Bombardier's trade law allegations against Korwin-Szymanowski.

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Mitsubishi countersuit alleges Bombardier
sought to stifle MRJ

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